

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 557 (Sub-No. 1X)**

**Trustees of the Cincinnati Southern Railway Company—Abandonment Exemption—in  
Scott County, Tenn.**

**BACKGROUND**

In this proceeding, the Trustees of the Cincinnati Southern Railway Company (CSR), which holds legal title to the CSR rail line for the benefit of the City of Cincinnati, Ohio, filed a notice of exemption under 49 C.F.R. § 1152 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment a line of railroad in Scott County, Tennessee. The rail line proposed for abandonment extends approximately 3.09 miles from milepost NR 215.61 near Helenwood, Tennessee to milepost NR 218.7 near New River, Tennessee (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If abandonment authority is granted in this proceeding, CSR intends to sell the Line to KT Group, LLC (KTG) for salvage and disposition of the rail right-of-way.

The Line has been the subject of two previous Board filings. In 2007, the Cincinnati, New Orleans, and Texas Pacific Railway Company (CNOTP) sought authority from the Board to abandon a line of railroad that included the Line in Docket No. AB 290 (Sub-No. 279X) CNOTP subsequently withdrew its petition for abandonment in that proceeding noting that, because CNOTP is not the owner of the track and its associated structures, CNOTP did not have the authority to undertake abandonment. In May of 2015, CNOTP sought and obtained authority from the Board to discontinue common carrier service over the Line in Docket Number AB 290 (Sub-No. 354X). In its filing in Docket Number AB 290 (Sub-No. 354X), CNOTP stated that CSR, the owner of the Line, was not a railroad subject to Board jurisdiction and would therefore not be required to seek abandonment authority from the Board prior to conducting salvage activities and disposing of the right-of-way. In the present proceeding, CSR notes that this information was incorrect and that CSR is indeed a railroad subject to Board jurisdiction. Accordingly, CSR is now seeking Board authority to abandon the Line.

## **ENVIRONMENTAL REVIEW**

The Board's Office of Environmental Analysis (OEA) prepared an EA in connection with Docket No. AB 290 (Sub-No. 354X). The EA was prepared with the understanding that CSR was not a railroad subject to Board jurisdiction and therefore would not seek abandonment authority from the Board prior to conducting salvage activities and disposing of the right-of-way. The EA in that proceeding concluded that discontinuance of CNOTP's common carrier authority over the Line would not significantly affect the quality of the environment. The EA was made available to the public on May 8, 2015. OEA has verified that CSR is in fact a railroad subject to Board jurisdiction and is required to obtain abandonment authority from the Board prior to salvaging the Line and disposing of the right-of-way.

In the present proceeding, CSR submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. CSR served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> OEA has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

CSR states that no local traffic or overhead traffic has moved over the Line for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or of recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### ***Salvage Activities***

If abandonment authority is granted in the proceeding, CSR intends to convey the Line to KTG. According to CSR, KTG intends to salvage rail and track material from the right-of-way. KTG would not remove ballast or alter the contour of the underlying roadbed. There are no current plans to remove crossties; however, CSR states that, if crossties are removed, KTG would dispose of the crossties in accordance with applicable federal and state laws and regulations.

### ***Land Use***

CSR has requested comments from Office of the County Mayor of Scott County, Tennessee (Scott County) regarding the proposed abandonment, but has not received comments on the current proceeding. In 2007, however, Scott County submitted comments on Docket No. AB 290 (Sub-No. 279X). In those comments, Scott County expressed opposition to the proposed abandonment on the grounds that the long range plans of Scott County include the reopening of the railroad to serve coal, timber, and recreational businesses in the area. Scott County did not identify any potential environmental impacts that could occur as a result of

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 557 (Sub-No. 1X).

salvage. In order to ensure that salvage is conducted in a manner consistent with local environmental ordinances and environmental permitting requirements, OEA is recommending a condition requiring CSR to consult with Scott County prior to undertaking salvage activities.

CSR requested comments from the Natural Resources Conservation Service (NRCS) regarding potential impacts of the proposed abandonment, but has not received comments from NRCS on the current proceeding. NRCS did, however, submit comments on Docket No. AB 290 (Sub-No. 279X). In those comments, NRCS states that the project would have no effect on agricultural land, including prime farmland. Because salvage activities would be limited in scope and confined to the existing rail right-of-way, OEA concludes that the proposed abandonment would not affect agricultural land. Accordingly, no mitigation regarding the conservation of agricultural land is necessary.

The National Geodetic Survey (NGS) submitted comments on the present abandonment proceeding indicating that 6 geodetic station markers may be located in the project area. OEA conducted a search of the NGS Data Explorer tool and concluded that several of the geodetic station markers identified by NGS are located within or immediately adjacent to the rail right-of-way.<sup>2</sup> Accordingly, OEA is recommending a condition requiring CSR to consult with NGS prior to undertaking salvage activities in order to arrange for the possible relocation of geodetic station markers that could be damaged or destroyed by salvage activities.

Because the Line is not located within a designated coastal zone, no mitigation regarding coastal zone management is necessary.

### *Water Resources*

Based on OEA's review of available geospatial data, the Line crosses two small streams. The Line does not appear to cross a 100 year floodplain and does not cross and is not adjacent to wetlands identified in the U.S. Fish and Wildlife Service's (USFWS) National Wetlands Inventory.<sup>3</sup> CSR states that salvage activities would not alter the contour of the right-of-way or existing drainage systems. No ballast would be removed and no soil disturbance would occur. Accordingly, CSR believes that the proposed abandonment would have no impacts to water resources.

CSR has requested comments from the Tennessee Department of Environment and Conservation (TDEC) and the U.S. Environmental Protection Agency (USEPA) regarding potential impacts of the proposed abandonment on waterways and water quality. CSR has not received comments from these agencies on the current proceeding. USEPA did, however, submit comments related to the abandonment proceeding in Docket No. AB 290 (Sub-No. 279X). In those comments, USEPA stated that the project would not require a National Pollutant Elimination System (NPES) permit under Section 402 of the Clean Water Act (33 U.S.C. § 1251).

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<sup>2</sup> National Geodetic Survey Data Explorer, <http://www.ngs.noaa.gov/NGSDDataExplorer/> (last visited October 26, 2015).

<sup>3</sup> U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mapper.html> (last visited October 26, 2015).

CSR requested comments the U.S. Army Corps of Engineers (the Corps) regarding potential impacts from the proposed abandonment on waters of the United States, including wetlands. To date, the Corps has not provided comments on the present proceeding. The Corps did, however, submit comments related to the abandonment proceeding in Docket No. AB 290 (Sub-No. 279X). In those comments, the Corps stated that the project would not require a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344).

Because salvage activities would be limited in scope and confined to the existing rail right-of-way, OEA believes that the proposed abandonment would not result in impacts to water resources. Accordingly, no mitigation regarding water resources is recommended. OEA is sending a copy of this EA to TDEC and the Corps for review and comment.

### *Hazardous Materials*

CSR states that no known hazardous waste sites or spill exist within or adjacent to the rail right-of-way. OEA's review has confirmed that there are no federally listed Superfund sites in the vicinity of the Line.<sup>4</sup> Accordingly, no mitigation regarding hazardous materials is necessary.

### *Biological Resources*

In order to identify federally listed threatened and endangered species that may be located near the project area, OEA conducted a search of the USFWS Information, Planning, and Conservation System.<sup>5</sup> The table below shows the protected species known or thought to occur in the general vicinity of the Line. OEA notes that, based on a search using the USFWS critical habitat mapping tool, the Line does not cross and is not located adjacent to areas containing critical habitat for these or other federally listed threatened or endangered species.<sup>6</sup>

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<sup>4</sup> Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited October 26, 2015).

<sup>5</sup> U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac/> (last visited October 26, 2015).

<sup>6</sup> U.S. Fish and Wildlife Service, Critical Habitat Portal, [http://ecos.fws.gov/crithab/](http://ecos.fws.gov/ipac/http://ecos.fws.gov/crithab/) (last visited October 26, 2015).

| Protected species known or thought to exist in Scott County, Tennessee |                         |                                      |            |
|--|-------------------------|--------------------------------------|------------|
| Group  | Common Name             | Scientific Name                      | Status     |
| Clams  | Cumberland bean         | <i>Villosa trabalis</i>              | Endangered |
|  | Cumberland elktoe       | <i>Alasmodonta atropurpurea</i>      | Endangered |
|  | Cumberlandian combshell | <i>Epioblasma brevidens</i>          | Endangered |
|  | Littlewing pearlymussel | <i>Pegias fabula</i>                 | Endangered |
|  | Oyster mussel           | <i>Epioblasma capsaeformis</i>       | Endangered |
|  | Tan riffleshell         | <i>Epioblasma florentina walkeri</i> | Endangered |
| Fishes   | Blackside dace          | <i>Phoxinus cumberlandensis</i>      | Threatened |
|  | Duskytail darter        | <i>Etheostoma percnurum</i>          | Endangered |
| Plants   | Cumberland rosemary     | <i>Conradina verticillata</i>        | Threatened |
|  | Cumberland sandwort     | <i>Arenaria cumberlandensis</i>      | Endangered |
|  | Virginia spiraea        | <i>Spiraea virginiana</i>            | Threatened |
| Mammals  | Indiana bat             | <i>Myotis sodalist</i>               | Endangered |

The six species of clams and two species of fish listed above are aquatic species that are found in freshwater streams. The three plant species—Cumberland rosemary, Cumberland sandwort, and Virginia spiraea—are typically found along stream banks or on sand islands. OEA consulted with USFWS regarding the presence of these species in or near the rail right-of-way. USFWS confirmed that, although some of these species may be located within the same watershed as the proposed abandonment, none are likely to be present in or near the rail right-of-way.

As noted above, the proposed salvage activities include the removal of rail and related material from the rail right-of-way. OEA, in consultation with USFWS, determined that these activities would not result in the discharge of sediment, changes to the stream channel or water flow, or other impacts that could affect aquatic or plant species, should any be present in or near the rail right-of-way.

The Indiana bat is primarily threatened by disease and habitat disturbance. Because salvage of the Line would not result in disturbance of Indiana bat habitat, OEA believes that this species would not be affected by the proposed abandonment. Accordingly, OEA believes that the proposed abandonment would not affect any federally listed threatened or endangered species and is not recommending any environmental mitigation related to the federally listed protected species.

The Tennessee Wildlife Resources Agency (TWRA) submitted comments on the abandonment proceeding in Docket No. AB 290 (Sub-No. 279X), in which TWRA notes that a

state listed threatened fish, the ashy darter (*Etheostoma cinereum*), is known to occur in waterways near the project area. Because salvage activities would be limited in scope and confined to the existing rail right-of-way, OEA believes that salvage of the Line would have no effect on the ashy darter or any other state listed protect species. Nevertheless, in order to ensure that the potential for impacts to state listed protected species from salvage activities are minimized, OEA is recommending a condition requiring CSR to consult with TWRA prior to the start of salvage activities and to ensure that TWRA's reasonable recommendations are implemented.

### *Air Quality*

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Accordingly, no mitigation regarding air quality is necessary.

### *Noise*

Noise associated with salvage activities, if any, would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment. Accordingly, no mitigation related to noise impacts is necessary.

### *Summary*

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is sending a copy of this EA to the following agencies for review and comment: Scott County, NGS, TDEC, the Corps, and TWRA.

## **HISTORIC REVIEW**

According to CSR and OEA's independent research, the Line is a portion of the Cincinnati Southern Railway, which extends from Cincinnati, Ohio to Chattanooga, Tennessee and is owned by the City of Cincinnati. The Cincinnati Southern Railway was constructed during the years 1873 through 1879 and began operations in 1880. The railroad was leased to CNOTP in 1881. CNOTP came under the control of Southern Railway in 1893, which merged with Norfolk & Western in 1982 to become Norfolk Southern Railway.

In 1963, the segment of the Cincinnati Southern Railway between Helenwood, Tennessee and Robbins, Tennessee was relocated westward as part of a project to improve rail service and safety. The portion of this segment between Helenwood and New River, Tennessee was retained in place in order to permit continued access to the Brimstone Railroad, which extends between New River and Sterling, Tennessee. According to CSR, no traffic has moved over the Line in many years.

CSR states that there are three structures on the Line, all of which are bridges and two of which are 50 years old or older. The first bridge is a 20 foot concrete arch structure located at

milepost NR-215.98, which CSR states was probably constructed in the early 1900s. The second bridge is located at NR-216.60 and is a six-barrel concrete box structure constructed in 1918. The third bridge, which crosses over State Route 29 at milepost NR-218.60, was constructed in 1990. CSR states that the three bridges are of typical construction for their respective dates of construction.

CSR served the Historic Report, including topographic maps of rail right-of-way (the Area of Potential Effect, or APE), on the Tennessee Historical Commission (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating the proposed abandonment would have not affect any historic properties listed in or eligible for listing in the National Register of Historic Places (the National Register). OEA has reviewed the available information in this proceeding and concurs with the SHPO's comments.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the APE of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>7</sup> The search indicated that the Eastern Band of Cherokee Indians of North Carolina may have knowledge regarding properties of religious and cultural significance within the right-of-way of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to that tribe for review and comment.

## **CONDITIONS**

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. Prior to the start of salvage operations, the Trustees of the Cincinnati Southern Railway Company (CSR) shall consult with the Office of the Mayor of Scott County, Tennessee (Scott County) regarding the consistency of the proposed salvage activities with local environmental ordinances and environmental permitting requirements. CSR shall ensure that salvage activities are conducted in a manner consistent with the reasonable recommendations of Scott County.**
- 2. The Trustees of the Cincinnati Southern Railway Company (CSR) shall consult with the National Geodetic Survey and shall notify NGS at least 90 days prior to**

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<sup>7</sup> National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited October 26, 2015).

**beginning salvage activities that would disturb or destroy any geodetic station markers in order to allow for the relocation of the station markers by NGS.**

- 3. Prior to the start of salvage operations, the Trustees of the Cincinnati Southern Railway Company (CSR) shall consult with the Tennessee Wildlife Resources Agency (TWRA) regarding potential impacts of the proposed abandonment on state listed threatened or endangered species. CSR shall ensure that salvage activities are conducted in a manner consistent with the reasonable recommendations of TWRA to prevent or minimize any potential impacts.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding the Board's abandonment process. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 557 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at [waylandj@stb.dot.gov](mailto:waylandj@stb.dot.gov).

Date made available to the public: November 2, 2015

**Comment due date: November 17, 2015**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis